

expedited basis. The Counsel's decisions may be appealed to the Deputy Attorney General, who will process appeals within 15 days of receipt of the appeal. The Deputy Attorney General's decision is final and not subject to further administrative appeal. Persons who are dissatisfied with the final administrative decision may obtain judicial review either by filing an action for declaratory relief or giving the Department notice of their intention to proceed despite the Department's request for deletions of classified information, and a reasonable opportunity (30 working days) to file a civil action seeking a court order prohibiting disclosure. Employees and other affected individuals remain obligated not to disclose or publish information determined by the Government to be classified until any civil action is resolved.

(j) The obligations of Department of Justice employees described in this subpart apply with equal force to employees of the FBI with following exceptions and provisos:

(1) Nothing in this subpart shall supersede or alter obligations assumed under the basic FBI employment agreement.

(2) FBI employees required to sign nondisclosure agreements containing a provision for prepublication review pursuant to this subpart shall submit materials for review to the Assistant Director, Office of Congressional and Public Affairs. Such individuals shall also submit questions as to whether specific materials require prepublication review under such agreements to that Office for resolution. Where such questions raise policy questions or concern significant issues of interpretation under such an agreement, the Assistant Director, Office of Congressional and Public Affairs, shall consult with the Counsel for Intelligence Policy prior to responding to the inquiry.

(3) Decisions of the Assistant Director, Office of Congressional and Public Affairs, concerning the deletion of classified information, may be appealed to the Director, FBI, who will process appeals within 15 working days of receipt. Persons who are dissatisfied with the Director's decision may, at their option, appeal further to the Deputy Attorney General as provided in para-

graph (i) of this section. Judicial review, as set forth in that paragraph, is available following final agency action in the form of a decision by the Director or, if the appeal process in paragraph (i) of this section is pursued, the Deputy Attorney General.

Subpart B—Classified Information

§ 17.21 Classification and declassification authority.

(a) Top Secret original classification authority may only be exercised by the Attorney General, the Assistant Attorney General for Administration, and officials to whom such authority is delegated in writing by the Attorney General. No official who is delegated Top Secret classification authority pursuant to this paragraph may redelegate such authority.

(b) The Assistant Attorney General for Administration may delegate original Secret and Confidential classification authority to subordinate officials determined to have frequent need to exercise such authority. No official who is delegated original classification authority pursuant to this paragraph may redelegate such authority.

(c) Officials authorized to classify information at a specified level are also authorized to classify information at a lower level. In the absence of an official authorized to exercise classification authority pursuant to this section, the person designated to act in lieu of such official may exercise the official's classification authority.

§ 17.22 Classification of information; limitations.

(a) Information may be originally classified only if all of the following standards are met:

(1) The information is owned by, produced by or for, or is under the control of the United States Government;

(2) The information falls within one or more of the categories of information specified in section 1.5 of Executive Order 12958; and

(3) The classifying official determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security and such official is able to identify or describe the damage.